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7
8 MONTANA FIRST JUDICIAL DISTRICT, LEWIS & CLARK COUNTY

9
10 THE STATE OF MONTANA, ex
rel. Mike McGrath, Attorney
General,

11 Plaintiff,

12 v.

13 3B HOLDINGS, INC.; ALTADIS,
S.A.; APARA INTERNATIONAL;
14 ASIA PACIFIC TRADING GROUP;
BAILEY TOBACCO CORPORATION;
15 CAROLINA TOBACCO CO.;
CHARLES FALMORN HANDELS
16 GMBH; CHINA NATIONAL TOBACCO
IMPORT & EXPORT CORP.;
17 CHOICE TOBACCO LTD.; DOUWE
EGBERT; EARTH TOBACCO CORP.;
18 FLANDRIA TOBACCO; HEUPINK &
BLOEMEN; H.F. & Ph.F.
19 REENTSMA; JBG BLOEMAN; JOH.
WILH. VON EICKEN GMBH;
20 KISANLAL BASTIRAM SARDA;
MANGALORE GANESH BEEDI
WORKS; MOHANLAL
21 HARGOVENDDAS; NORTH ATLANTIC
OPERATING CO.; P.T. BENTOEL
22 PRIMA MALANG; P.T. GUDANG
GARAM; RBJ SALES; RED HAWK
23 TOBACCO CO.; REPUBLIC
TOBACCO; SABLE & WAGHIRE &
24 CO. LTD.; SEKAP GREEK
COOPERATIVE MFR'G CO. S.A.;
25 Th. D. GEORGIADES; UPPER TEN
TABAK; VCT/TOBACCO
SPECIALTIES,

26 Defendants.
27

Cause No.

**COMPLAINT FOR INJUNCTIVE AND
OTHER RELIEF**

1 Plaintiff THE STATE OF MONTANA ex rel. Mike McGrath,
2 Attorney General ("the State"), for its Complaint against the
3 Defendants, states as follows:

4 **General Allegations**

5 1. This is a Complaint for injunctive and other relief
6 under the Tobacco Products Reserve Fund Act, Mont. Code Ann.
7 §§ 16-11-401 through 16-11-403 ("the Act"), which became
8 effective on April 21, 1999. The Complaint is brought
9 against the Defendant tobacco product manufacturers on the
10 relation of the Attorney General of Montana (hereinafter
11 "Attorney General") pursuant to Mont. Code Ann. § 16-11-403.

12 2. The Act applies to each of the Defendants named
13 herein because (a) each manufactures cigarettes (defined in
14 the act to include roll-your-own tobacco) and is otherwise a
15 "tobacco product manufacturer," as that term is used in the
16 Act, (b) cigarettes manufactured by each of the Defendants
17 were sold in Montana during the time periods covered by the
18 Act, and (c) each has refused or failed to participate in the
19 tobacco Master Settlement Agreement ("MSA") entered into
20 between the plaintiff and certain other tobacco product
21 manufacturers in 1998.

22 3. Upon information and belief, each Defendant, as
23 described more specifically in the individual counts below,
24 is a corporation incorporated under the laws of a state other
25 than Montana or under the laws of a foreign country and is a
26 nonresident of Montana. The Defendants are subject to the
27 jurisdiction of this Court under Mont. R. Civ. P. 4B in that

1 they have transacted business in this State or placed
2 articles into the stream of commerce with the intention or
3 knowledge they would be made available for sale in Montana.
4 Venue is provided by Mont. Code Ann. § 25-2-124.

5 4. Section 16-11-401 of the Act reflects its background
6 and purpose. Subsection (1) provides a legislative finding
7 concerning the serious health risk presented by cigarette
8 smoking. Subsections (2), (3), and (4) indicate the
9 legislature's concern with the serious financial consequences
10 to the State as a result of smoking. They also reflect the
11 State's policy that the State's financial burdens
12 attributable to smoking, related to disease and death, be
13 borne by tobacco product manufacturers rather than by the
14 State. Subsection (5) describes the MSA, which imposes
15 various financial obligations on the manufacturers
16 participating in the MSA, including their obligations to pay
17 substantial sums to the State and to fund a national
18 foundation devoted to public health. Subsection (6) reflects
19 the State's policy of imposing a similar financial burden on
20 manufacturers who do not participate in the MSA, so that
21 there is available a reserve fund to guarantee a source of
22 compensation for future judgments obtained against
23 nonparticipating manufacturers. Subsection (6) is also
24 intended to prevent non-participating manufacturers from
25 taking unfair competitive advantage of the participating
26 manufacturers on whom the financial burdens of the MSA fall

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1 through deriving large, short-term profits and then becoming
2 judgment proof before liability may arise.

3 5. Pursuant to these purposes, § 16-11-403(2)(a) of the
4 Act requires nonparticipating manufacturers to place funds
5 into a "qualified escrow fund," as defined in the Act, based
6 on the number of the manufacturers' cigarettes (or ounces of
7 roll-your-own tobacco) sold in Montana. Montana Code
8 Annotated § 16-11-403(2)(c)(ii) requires non-participating
9 manufacturers to certify their compliance with the escrow
10 requirement annually to the Attorney General. Montana Code
11 Annotated § 16-11-403(2)(c)(ii) authorizes the Attorney
12 General to bring suit on behalf of the State for
13 noncompliance, and it sets forth the penalties and other
14 consequences of noncompliance.

15 6. None of the Defendants named herein has complied
16 with the escrow requirements of § 16-11-403(2)(c)(ii) of the
17 Act.

18
19 **COUNT 1**
20 **3B HOLDINGS, INC.**

21 7. The State hereby incorporates the allegations of
22 paragraphs 1-6 as if set forth herein in their entirety.

23 8. The State is informed and believes, and therefore
24 alleges, that 3B HOLDINGS, INC., is a corporate entity
25 organized under the laws of a state other than Montana with
26 offices in Lewiston, Idaho, and Blaine, Washington. It is a
27

1 tobacco product manufacturer, as defined in the Act, and is a
2 non-participant in the MSA.

3 9. The State is further informed and believes, by
4 virtue of documents filed by cigarette wholesalers with the
5 State of Montana, and therefore alleges, that cigarettes
6 manufactured by this Defendant were sold in Montana in 1999
7 and 2000. The escrow obligations of the Act therefore apply
8 to this Defendant, requiring it to have established and made
9 appropriate contributions to a qualified escrow fund by
10 April 15, 2000, and April 15, 2001.

11 10. The Montana Attorney General's Office in August,
12 and December of 2001 sent written notice to this Defendant,
13 informing it of the requirements of the Act. The Defendant
14 has nevertheless defaulted entirely in its obligations to
15 establish and make appropriate contributions to a qualified
16 escrow fund and to certify its compliance with the Act to the
17 Attorney General.

18 WHEREFORE, the State prays that this Court

19 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
20 applies to knowing violations, enter a mandatory injunction
21 requiring the said Defendant (i) to place such funds into a
22 qualified escrow fund as shall bring it into compliance with
23 the Act, and (ii) to make a compliance certification to the
24 Attorney General;

25 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
26 Act, impose a penalty against the said Defendant in the
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1 amount of up to 300 percent of the original amount improperly
2 withheld from escrow;

3 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
4 applies to two knowing violations, enjoin the said Defendant
5 from selling the cigarettes of the said Defendant in Montana,
6 whether directly or through a wholesaler, distributor,
7 retailer or similar intermediary, for a period of two years;
8 and

9 (d) award the State such further relief as may be
10 necessary or appropriate.

11
12 **COUNT 2**
13 **ALTADIS, S.A.**

14 11. The State hereby incorporates the allegations of
15 paragraphs 1-6 as if set forth herein in their entirety.

16 12. The State is informed and believes, and therefore
17 alleges, that ALTADIS, S.A., is a corporate entity organized
18 under the laws of a state other than Montana with offices in
19 Madrid, Spain. It is a tobacco product manufacturer, as
20 defined in the Act, and is a non-participant in the MSA.

21 13. The State is further informed and believes, by
22 virtue of documents filed by cigarette wholesalers with the
23 State of Montana, and therefore alleges, that cigarettes
24 manufactured by this Defendant were sold in Montana in 2000.
25 The escrow obligations of the Act therefore apply to this
26 Defendant, requiring it to have established and made

1 appropriate contributions to a qualified escrow fund by
2 April 15, 2001.

3 14. The Montana Attorney General's Office in December
4 of 2001 and January of 2002 sent written notice to this
5 Defendant, informing it of the requirements of the Act. The
6 Defendant has nevertheless defaulted in its obligations to
7 establish and make appropriate contributions to a qualified
8 escrow fund and to certify its compliance with the Act to the
9 Attorney General.

10 WHEREFORE, the State prays that this Court

11 (a) pursuant to § 16-11-403(2)(c)(Iii) of the Act, which
12 applies to violations, enter a mandatory injunction requiring
13 the said Defendant (i) to place such funds into a qualified
14 escrow fund as shall bring it into compliance with the Act,
15 and (ii) to make a compliance certification to the Attorney
16 General;

17 (b) pursuant to the same § 16-11-403(2)(c)(iiiI) of the
18 Act, impose a penalty against the said Defendant in the
19 amount of up to 100 percent of the original amount improperly
20 withheld from escrow; and

21 (c) award the State such further relief as may be
22 necessary or appropriate.

23

24

COUNT 3
APARA INTERNATIONAL

25

26 15. The State hereby incorporates the allegations of
27 paragraphs 1-6 as if set forth herein in their entirety.

1 16. The State is informed and believes, and it
2 therefore alleges, that APARA INTERNATIONAL is a corporate
3 entity organized under the laws of a foreign country with
4 offices in Bombay, India. It is a "first purchaser" and
5 therefore a tobacco product manufacturer, as defined in the
6 Act, and is a non-participant in the MSA.

7 17. The State is further informed and believes, by
8 virtue of documents filed by cigarette wholesalers with the
9 State of Montana, and it therefore alleges, that cigarettes
10 manufactured by this Defendant were sold in Montana in 1999
11 and 2000. The escrow obligations of the Act therefore apply
12 to this Defendant, requiring it to have established escrow
13 funds by, respectively, April 15, 2000, and by April 15,
14 2001.

15 18. The Montana Attorney General's Office in August and
16 December of 2001 sent written notice to this Defendant,
17 informing it of the requirements of the Act. The Defendant
18 has nevertheless defaulted entirely in its obligation to
19 establish and to make appropriate contributions to a
20 qualified escrow fund and to certify its compliance with the
21 Act to the Attorney General.

22 WHEREFORE, the State prays that this Court

23 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
24 applies to knowing violations, enter a mandatory injunction
25 requiring the said Defendant (i) to place such funds into a
26 qualified escrow fund as shall bring it into compliance with
27

1 the Act, and (ii) to make a compliance certification to the
2 Attorney General;

3 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
4 Act, impose a penalty against the said Defendant in the
5 amount of up to 300 percent of the original amount improperly
6 withheld from escrow;

7 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
8 applies to two knowing violations, enjoin the said Defendant
9 from selling the cigarettes of the said Defendant in Montana,
10 whether directly or through a wholesaler, distributor,
11 retailer or similar intermediary, for a period of two years;
12 and

13 (d) award the State such further relief as may be
14 necessary or appropriate.

15
16 **COUNT 4**
17 **ASIA PACIFIC TRADING GROUP**

18 19. The State hereby incorporates the allegations of
19 paragraphs 1-6 as if set forth herein in their entirety.

20 20. The State is informed and believes, and therefore
21 alleges, ASIA PACIFIC TRADING GROUP is a corporate entity
22 organized under the laws of a state other than Montana with
23 offices in Honolulu, Hawaii. It is a tobacco product
24 manufacturer, as defined in the Act, and is a non-participant
25 in the MSA.

26 21. The State is further informed and believes, by
27 virtue of documents filed by cigarette distributors with the

1 State of Montana, and therefore alleges, that cigarettes
2 manufactured by this Defendant were sold in Montana in 2000.
3 The escrow obligations of the Act therefore apply to this
4 Defendant, requiring it to have established and made
5 appropriate contributions to a qualified escrow fund by
6 April 15, 2001.

7 22. The Montana Attorney General's Office in December
8 of 2001 sent written notice to this Defendant, informing it
9 of the requirements of the Act. The Defendant has
10 nevertheless defaulted entirely in its obligations to
11 establish and to make appropriate contributions to a
12 qualified escrow fund and to certify its compliance with the
13 Act to the Attorney General.

14 WHEREFORE, the State prays that this Court

15 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
16 applies to knowing violations, enter a mandatory injunction
17 requiring the said Defendant (i) to place such funds into a
18 qualified escrow fund as shall bring it into compliance with
19 the Act, and (ii) to make a compliance certification to the
20 Attorney General;

21 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
22 Act, impose a penalty against the said Defendant in the
23 amount of up to 300 percent of the original amount improperly
24 withheld from escrow; and

25 (c) award the State such further relief as may be
26 necessary or appropriate.

27

COUNT 5
BAILEY TOBACCO CORPORATION

23. The State hereby incorporates the allegations of paragraphs 1-6 as if set forth herein in their entirety.

24. The State is informed and believes, and therefore alleges, that BAILEY TOBACCO CORPORATION is a corporate entity organized under the laws of the state of Virginia. It is a tobacco product manufacturer, as defined in the Act, and is a non-participant in the MSA.

25. The State is further informed and believes, by virtue of documents filed by cigarette wholesalers with the State of Montana, and it therefore alleges, that cigarettes manufactured by this Defendant were sold in Montana in 2000. The escrow obligations of the Act therefore apply to this Defendant, requiring it to have established a qualified escrow fund by April 15, 2001.

26. The Montana Attorney General's Office in December of 2001 sent written notice to this Defendant, informing it of the requirements of the Act. The Defendant has failed to establish a qualified escrow fund and to certify its compliance with the Act to the Attorney General.

WHEREFORE, the State prays that this Court

(a) pursuant to § 16-11-403(2)(c)(iii) of the Act, enter a mandatory injunction requiring the said Defendant (i) to establish a qualified escrow fund which brings it into compliance with the Act, and (ii) to make a compliance certification to the Attorney General; and

1 (b) award the State such further relief as may be
2 necessary or appropriate.

3
4 **COUNT 6**
5 **CAROLINA TOBACCO CO.**

6 27. The State hereby incorporates the allegations of
7 paragraphs 1-6 as if set forth herein in their entirety.

8 28. The State is informed and believes, and therefore
9 alleges, CAROLINA TOBACCO CO. is a corporate entity organized
10 under the laws of a state other than Montana with offices in
11 Portland, Oregon. It is a tobacco product manufacturer, as
12 defined in the Act, and is a non-participant in the MSA.

13 29. The State is further informed and believes, by
14 virtue of documents filed by cigarette wholesalers with the
15 State of Montana, and therefore alleges, that cigarettes
16 manufactured by this Defendant were sold in Montana in 2000.
17 The escrow obligations of the Act therefore apply to this
18 Defendant, requiring it to have established and made
19 appropriate contributions to a qualified escrow fund by
20 April 15, 2001.

21 30. The Montana Attorney General's Office in June 2001
22 and December of 2001 sent written notice to this Defendant,
23 informing it of the requirements of the Act. The Defendant
24 has nevertheless failed in its obligation to establish and
25 make appropriate contributions to a qualified escrow fund and
26 to certify that it has deposited the full amount owed to the
27 State of Montana.

1 WHEREFORE, the State prays that this Court

2 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
3 applies to violations, enter a mandatory injunction requiring
4 the said Defendant (i) to establish a qualified escrow fund
5 in compliance with the Act, and (ii) to make a compliance
6 certification to the Attorney General; and

7 (b) pursuant to the same § 16-11-403(2)(c)(i) of the
8 Act, impose a penalty against the said Defendant in the
9 amount of up to 100 percent of the original amount improperly
10 withheld for escrow; and

11 (c) award the State such further relief as may be
12 necessary or appropriate.

13

14

COUNT 7
CHARLES FALMORN HANDELS GMBH

15

16 31. The State hereby incorporates the allegations of
17 paragraphs 1-6 as if set forth herein in their entirety.

18 32. The State is informed and believes, and therefore
19 alleges, that CHARLES FALMORN HANDELS GMBH is a corporate
20 entity organized under the laws of a foreign country with
21 offices in Dingelstadt, Germany. It is a tobacco product
22 manufacturer, as defined in the Act, and is a non-participant
23 in the MSA.

24 33. The State is further informed and believes, by
25 virtue of documents filed by cigarette wholesalers with the
26 State of Montana, and therefore alleges, that cigarettes
27 manufactured by this Defendant were sold in Montana in 1999

1 and in 2000. The escrow obligations of the Act therefore
2 apply to this Defendant, requiring it to have established and
3 made appropriate contributions to a qualified escrow funds
4 by, respectively, April 15, 2000, and by April 15, 2001.

5 34. The Montana Attorney General's Office in December
6 of 2001 sent written notice to this Defendant, informing it
7 of the requirements of the Act. The Defendant has
8 nevertheless defaulted entirely in its obligation to
9 establish and to make appropriate contributions to the
10 qualified escrow fund and to certify its compliance with the
11 Act to the Attorney General.

12 WHEREFORE, the State prays that this Court

13 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
14 applies to knowing violations, enter a mandatory injunction
15 requiring the said Defendant (i) to place such funds into a
16 qualified escrow fund as shall bring it into compliance with
17 the Act, and (ii) to make a compliance certification to the
18 Attorney General;

19 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
20 Act, impose a penalty against the said Defendant in the
21 amount of up to 300 percent of the original amounts
22 improperly withheld from escrow;

23 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
24 applies to two knowing violations, enjoin the said Defendant
25 from selling the cigarettes of the said Defendant in Montana,
26 whether directly or through a wholesaler, distributor,

27

1 retailer or similar intermediary, for a period of two years;
2 and

3 (d) award the State such further relief as may be
4 necessary or appropriate.

5
6 **COUNT 8**
7 **CHINA NATIONAL TOBACCO IMPORT & EXPORT CORP.**

8 35. The State hereby incorporates the allegations of
9 paragraphs 1-6 as if set forth herein in their entirety.

10 36. The State is informed and believes, and therefore
11 alleges, that CHINA NATIONAL TOBACCO IMPORT & EXPORT CORP. is
12 a corporate entity organized under the laws of a foreign
13 country with offices in Beijing, China. It is a tobacco
14 product manufacturer, as defined in the Act, and is a non-
15 participant in the MSA.

16 37. The State is further informed and believes, by
17 virtue of documents or other information furnished by
18 cigarette wholesalers to the State of Montana, and therefore
19 alleges, that cigarettes manufactured by this Defendant were
20 subsequently sold in Montana in 1999 and 2000. The escrow
21 obligations of the Act therefore apply to this Defendant,
22 requiring it to have established and made appropriate
23 contributions to a qualified escrow fund by, respectively,
24 April 15, 2000, and by April 15, 2001.

25 38. The Montana Attorney General's Office in August and
26 December of 2001 sent written notice to this Defendant,
27 informing it of the requirements of the Act. The Defendant

1 has nevertheless defaulted entirely in its obligation to
2 establish and to make appropriate contributions to a
3 qualified escrow fund and to certify its compliance with the
4 Act to the Attorney General.

5 WHEREFORE, the State prays that this Court

6 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
7 applies to knowing violations, enter a mandatory injunction
8 requiring the said Defendant (i) to place such funds into a
9 qualified escrow fund as shall bring it into compliance with
10 the Act, and (ii) to make a compliance certification to the
11 Attorney General;

12 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
13 Act, impose a penalty against the said Defendant in the
14 amount of up to 300 percent of the original amount improperly
15 withheld from escrow;

16 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
17 applies to two knowing violations, enjoin the said Defendant,
18 and all those acting in concert with it, including
19 wholesalers, distributors and retailers, from selling the
20 cigarettes of the said Defendant in Montana for a period of
21 two years; and

22 (d) award the State such further relief as may be
23 necessary or appropriate.

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COUNT 9
CHOICE TOBACCO LTD.

39. The State hereby incorporates the allegations of paragraphs 1-6 as if set forth herein in their entirety.

40. The State is informed and believes, and therefore alleges, that CHOICE TOBACCO LTD is a corporate entity organized under the laws of a foreign country with offices in Prince Edward Island, Canada. It is a tobacco product manufacturer, as defined in the Act, and is a non-participant in the MSA.

41. The State is further informed and believes, by virtue of documents filed by cigarette wholesalers with the State of Montana, and therefore alleges, that cigarettes manufactured by this Defendant were sold in Montana in 1999 and in 2000. The escrow obligations of the Act therefore apply to this Defendant, requiring it to have established and made appropriate contributions to a qualified escrow fund by, respectively, April 15, 2000, and by April 15, 2001.

42. The Montana Attorney General's Office in March and December of 2001 sent written notice to this Defendant, informing it of the requirements of the Act. The Defendant has nevertheless defaulted entirely in its obligation to establish and make appropriate contributions to a qualified escrow funds and to certify its compliance with the Act to the Attorney General.

WHEREFORE, the State prays that this Court

1 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
2 applies to knowing violations, enter a mandatory injunction
3 requiring the said Defendant (i) to place such funds into a
4 qualified escrow fund as shall bring it into compliance with
5 the Act, and (ii) to make a compliance certification to the
6 Attorney General;

7 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
8 Act, impose a penalty against the said Defendant in the
9 amount of up to 300 percent of the original amounts
10 improperly withheld from escrow;

11 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
12 applies to two knowing violations, enjoin the said Defendant,
13 and all those acting in concert with it, including
14 wholesalers, distributors and retailers, from selling the
15 cigarettes of the said Defendant in Montana for a period of
16 two years; and

17 (d) award the State such further relief as may be
18 necessary or appropriate.

19
20 **COUNT 10**
21 **DOUWE EGBERT**

22 43. The State hereby incorporates the allegations of
23 paragraphs 1-6 as if set forth herein in their entirety.

24 44. The State is informed and believes, and therefore
25 alleges, that DOUWE EGBERT is a corporate entity organized
26 under the laws of a foreign country with offices in
27

1 Westmeath, Ireland. It is a tobacco product manufacturer, as
2 defined in the Act, and is a non-participant in the MSA.

3 45. The State is further informed and believes, by
4 virtue of documents filed by cigarette wholesalers with the
5 State of Montana, and therefore alleges, that cigarettes
6 manufactured by this Defendant were sold in Montana in 2000.
7 The escrow obligations of the Act therefore apply to this
8 Defendant, requiring it to have established and made
9 appropriate contributions to a qualified escrow fund by
10 April 15, 2001.

11 46. The Montana Attorney General's Office in March and
12 December of 2001 sent written notice to this Defendant,
13 informing it of the requirements of the Act. The Defendant
14 has nevertheless defaulted entirely in its obligation to
15 establish and make appropriate contributions to a qualified
16 escrow fund and to certify its compliance with the Act to the
17 Attorney General.

18 WHEREFORE, the State prays that this Court

19 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
20 applies to knowing violations, enter a mandatory injunction
21 requiring the said Defendant (i) to place such funds into a
22 qualified escrow fund as shall bring it into compliance with
23 the Act, and (ii) to make a compliance certification to the
24 Attorney General;

25 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
26 Act, impose a penalty against the said Defendant in the
27

1 amount of up to 300 percent of the original amounts
2 improperly withheld from escrow; and

3 (c) award the State such further relief as may be
4 necessary or appropriate.

5
6 **COUNT 11**
7 **EARTH TOBACCO CORP.**

8 47. The State hereby incorporates the allegations of
9 paragraphs 1-6 as if set forth herein in their entirety.

10 48. The State is informed and believes, and therefore
11 alleges, that EARTH TOBACCO CORP. is a corporate entity
12 organized under the laws of a foreign country with offices in
13 Calookan City, Philippines. It is a tobacco product
14 manufacturer, as defined in the Act, and is a non-participant
15 in the MSA.

16 49. The State is further informed and believes, by
17 virtue of documents filed by cigarette wholesalers with the
18 State of Montana, and therefore alleges, that cigarettes
19 manufactured by this Defendant were sold in Montana in 2000.
20 The escrow obligations of the Act therefore apply to this
21 Defendant, requiring it to have established and made
22 appropriate contributions to a qualified escrow fund by
23 April 15, 2001.

24 50. The Montana Attorney General's Office in October
25 and December of 2001 sent written notice to this Defendant,
26 informing it of the requirements of the Act. The Defendant
27 has nevertheless defaulted entirely in its obligation to

1 establish and make appropriate contributions to a qualified
2 escrow fund and to certify its compliance with the Act to the
3 Attorney General.

4 WHEREFORE, the State prays that this Court

5 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
6 applies to knowing violations, enter a mandatory injunction
7 requiring the said Defendant (i) to place such funds into a
8 qualified escrow fund as shall bring it into compliance with
9 the Act, and (ii) to make a compliance certification to the
10 Attorney General;

11 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
12 Act, impose a penalty against the said Defendant in the
13 amount of up to 300 percent of the original amounts
14 improperly withheld from escrow; and

15 (c) award the State such further relief as may be
16 necessary or appropriate.

17
18 **COUNT 12**
19 **FLANDRIA TOBACCO**

20 51. The State hereby incorporates the allegations of
21 paragraphs 1-6 as if set forth herein in their entirety.

22 52. The State is informed and believes, and therefore
23 alleges, that FLANDRIA TOBACCO is a corporate entity
24 organized under the laws of a foreign country with offices in
25 Kruishoutem, Netherlands. It is a tobacco product
26 manufacturer, as defined in the Act, and is a non-participant
27 in the MSA.

1 53. The State is further informed and believes, by
2 virtue of documents filed by cigarette wholesalers with the
3 State of Montana, and therefore alleges, that cigarettes
4 manufactured by this Defendant were sold in Montana in 1999
5 and 2000. The escrow obligations of the Act therefore apply
6 to this Defendant, requiring it to have established and made
7 appropriate contributions to a qualified escrow fund by,
8 respectively, April 15, 2000, and by April 15, 2001.

9 54. The Montana Attorney General's Office in August and
10 December of 2001 sent written notice to this Defendant,
11 informing it of the requirements of the Act. The Defendant
12 has nevertheless defaulted entirely in its obligation to
13 establish and make appropriate contributions to a qualified
14 escrow fund and to certify its compliance with the Act to the
15 Attorney General.

16 WHEREFORE, the State prays that this Court

17 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
18 applies to knowing violations, enter a mandatory injunction
19 requiring the said Defendant (i) to place such funds into a
20 qualified escrow fund as shall bring it into compliance with
21 the Act, and (ii) to make a compliance certification to the
22 Attorney General;

23 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
24 Act, impose a penalty against the said Defendant in the
25 amount of up to 300 percent of the original amounts
26 improperly withheld from escrow;

27

1 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
2 applies to two knowing violations, enjoin the said Defendant
3 from selling the cigarettes of the said Defendant in Montana,
4 whether directly or through a wholesaler, distributor,
5 retailer or similar intermediary, for a period of two years;
6 and

7 (d) award the State such further relief as may be
8 necessary or appropriate.

9
10 **COUNT 13**
11 **HEUPINK & BLOEMEN TABAK**

12 55. The State hereby incorporates the allegations of
13 paragraphs 1-6 as if set forth herein in their entirety.

14 56. The State is informed and believes, and therefore
15 alleges, that HEUPINK & BLOEMEN TABAK is a corporate entity
16 organized under the laws of a foreign country with offices in
17 Ootmarsum, Netherlands. It is a tobacco product
18 manufacturer, as defined in the Act, and is a non-participant
19 in the MSA.

20 57. The State is further informed and believes, by
21 virtue of documents filed by cigarette wholesalers with the
22 State of Montana, and therefore alleges, that cigarettes
23 manufactured by this Defendant were sold in Montana in 1999
24 and 2000. The escrow obligations of the Act therefore apply
25 to this Defendant, requiring it to have established and made
26 appropriate contributions to a qualified escrow fund by,
27 respectively, April 15, 2000, and April 15, 2001.

1 58. The Montana Attorney General's Office in August and
2 December of 2001 sent written notice to this Defendant,
3 informing it of the requirements of the Act. The Defendant
4 has defaulted entirely in its obligation to establish the
5 qualified escrow fund and to certify its compliance with the
6 Act to the Attorney General.

7 WHEREFORE, the State prays that this Court

8 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
9 applies to knowing violations, enter a mandatory injunction
10 requiring the said Defendant (i) to place such funds into a
11 qualified escrow fund as shall bring it into compliance with
12 the Act, and (ii) to make a compliance certification to the
13 Attorney General;

14 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
15 Act, impose a penalty against the said Defendant in the
16 amount of up to 300 percent of the original amount improperly
17 withheld from escrow;

18 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
19 applies to two knowing violations, enjoin the said Defendant
20 from selling the cigarettes of the said Defendant in Montana,
21 whether directly or through a wholesaler, distributor,
22 retailer or similar intermediary, for a period of two years;
23 and

24 (d) award the State such further relief as may be
25 necessary or appropriate.

COUNT 14
H.F. & Ph.F. REEMTSMA

59. The State hereby incorporates the allegations of paragraphs 1-6 as if set forth herein in their entirety.

60. The State is informed and believes, and therefore alleges, H.F. & Ph.F. REEMTSMA is a corporate entity organized under the laws of a foreign country with offices in Hamburg, Germany. It is a tobacco product manufacturer, as defined in the Act, and is a non-participant in the MSA.

61. The State is further informed and believes, by virtue of documents filed by cigarette distributors with the State of Montana, and by an importer, DAVIDOFF of GENEVA (CT) INC, and therefore alleges, that cigarettes manufactured by this Defendant were sold in Montana in 1999 and 2000. The escrow obligations of the Act therefore apply to this Defendant, requiring it to have established and made appropriate contributions to a qualified escrow fund by, respectively, April 15, 2000, and April 15, 2001.

62. The Defendant has defaulted in its obligations to establish and make appropriate contributions to a qualified escrow fund and to certify its compliance with the Act to the Attorney General.

WHEREFORE, the State prays that this Court

(a) pursuant to § 16-11-403(2)(c)(iii) of the Act, enter a mandatory injunction requiring the said Defendant (i) to place appropriate funds into a qualified escrow fund as shall

1 bring it into compliance with the Act, and (ii) to make a
2 compliance certification to the Attorney General;

3 (b) pursuant to the same § 16-11-403(2)(c)(iii) of the
4 Act, impose a penalty against the said Defendant in the
5 amount of up to 100 percent of the original amount improperly
6 withheld from escrow; and

7 (c) award the State such further relief as may be
8 necessary or appropriate.

9
10 **COUNT 15**
11 **JBG BLOEMAN TABAKS FABRIEK BV**

12 63. The State hereby incorporates the allegations of
13 paragraphs 1-6 as if set forth herein in their entirety.

14 64. The State is informed and believes, and therefore
15 alleges, that JBG BLOEMAN TABAKS FABRIEK BV is a corporate
16 entity organized under the laws of a foreign country with
17 offices in Ootmarsum, Netherlands. It is a tobacco product
18 manufacturer, as defined in the Act, and is a non-participant
19 in the MSA.

20 65. The State is further informed and believes, by
21 virtue of documents filed by cigarette wholesalers with the
22 State of Montana, and therefore alleges, that cigarettes
23 manufactured by this Defendant were sold in Montana in 1999
24 and in 2000. The escrow obligations of the Act therefore
25 apply to this Defendant, requiring it to have established and
26 made appropriate contributions to a qualified escrow fund by,
27 respectively, April 15, 2000, and by April 15, 2001.

1 66. The Montana Attorney General's Office in March and
2 December of 2001 sent written notice to this Defendant
3 informing it of the requirements of the Act. The Defendant
4 has defaulted entirely in its obligation to establish the
5 qualified escrow funds and to certify its compliance with the
6 Act to the Attorney General.

7 WHEREFORE, the State prays that this Court

8 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
9 applies to knowing violations, enter a mandatory injunction
10 requiring the said Defendant (i) to place such funds into a
11 qualified escrow fund as shall bring it into compliance with
12 the Act, and (ii) to make a compliance certification to the
13 Attorney General;

14 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
15 Act, impose a penalty against the said Defendant in the
16 amount of up to 300 percent of the original amounts
17 improperly withheld from escrow;

18 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
19 applies to two knowing violations, enjoin the said Defendant
20 from selling the cigarettes of the said Defendant in Montana,
21 whether directly or through a wholesaler, distributor,
22 retailer or similar intermediary, for a period of two years;
23 and

24 (d) award the State such further relief as may be
25 necessary or appropriate.

COUNT 16
JOH. WILH. VON EICKEN GMBH

67. The State hereby incorporates the allegations of paragraphs 1-6 as if set forth herein in their entirety.

68. The State is informed and believes, and therefore alleges, that JOH. WILH. VON EICKEN GMBH is a corporate entity organized under the laws of a foreign country with offices in Lubeck, Germany. It is a tobacco product manufacturer, as defined in the Act, and is a non-participant in the MSA.

69. The State is further informed and believes, by virtue of documents filed by cigarette wholesalers with the State of Montana, and therefore alleges, that cigarettes manufactured by this Defendant were sold in Montana in 1999 and in 2000. The escrow obligations of the Act therefore apply to this Defendant, requiring it to have established and made appropriate contributions to a qualified escrow funds by, respectively, April 15, 2000, and by April 15, 2001.

70. The Montana Attorney General's Office in June and December of 2001 sent written notice to this Defendant, informing it of the requirements of the Act. Although the Defendant has deposited funds into an "escrow account," the Defendant has nevertheless defaulted in its obligation to establish a qualified escrow fund.

WHEREFORE, the State prays that this Court

(a) pursuant to § 16-11-403(2)(c)(iii) of the Act, which applies to violations, enter a mandatory injunction requiring

1 the said Defendant (i) to establish a qualified escrow fund
2 as shall bring it into compliance with the Act, and (ii) to
3 make a compliance certification to the Attorney General; and

4 (b) award the State such further relief as may be
5 necessary or appropriate.

6
7 **COUNT 17**
8 **KISANLAL BASTIRAM SARDA**

9 71. The State hereby incorporates the allegations of
10 paragraphs 1-6 as if set forth herein in their entirety.

11 72. The State is informed and believes, and therefore
12 alleges, that KISANLAL BASTIRAM SARDA is a corporate entity
13 organized under the laws of a foreign country with offices in
14 Nashik, India. It is a tobacco product manufacturer, as
15 defined in the Act, and is a non-participant in the MSA.

16 73. The State is further informed and believes, by
17 virtue of documents filed by cigarette wholesalers with the
18 State of Montana, and therefore alleges, that cigarettes
19 manufactured by this Defendant were sold in Montana in 1999
20 and in 2000. The escrow obligations of the Act therefore
21 apply to this Defendant, requiring it to have established and
22 made appropriate contributions to a qualified escrow fund by,
23 respectively, April 15, 2000, and by April 15, 2001.

24 74. The Montana Attorney General's Office in March of
25 2001 and January of 2002 sent written notice to this
26 Defendant, informing it of the requirements of the Act. The
27 Defendant has nevertheless defaulted entirely in its

1 obligation to establish and make appropriate contributions to
2 the qualified escrow fund and to certify its compliance with
3 the Act to the Attorney General.

4 WHEREFORE, the State prays that this Court

5 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
6 applies to knowing violations, enter a mandatory injunction
7 requiring the said Defendant (i) to place such funds into a
8 qualified escrow fund as shall bring it into compliance with
9 the Act, and (ii) to make a compliance certification to the
10 Attorney General;

11 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
12 Act, impose a penalty against the said Defendant in the
13 amount of up to 300 percent of the original amounts
14 improperly withheld from escrow;

15 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
16 applies to two knowing violations, enjoin the said Defendant
17 from selling the cigarettes of the said Defendant in Montana,
18 whether directly or through a wholesaler, distributor,
19 retailer or similar intermediary, for a period of two years;
20 and

21 (d) award the State such further relief as may be
22 necessary or appropriate.

23
24 **COUNT 18**
25 **MANGALORE GANESH BEEDI WORKS**

26 75. The State hereby incorporates the allegations of
27 paragraphs 1-6 as if set forth herein in their entirety.

1 76. The State is informed and believes, and therefore
2 alleges, that MANGALORE GANESH BEEDI WORKS is an entity
3 organized under the laws of a foreign country with offices in
4 Karnataka State, India. It is a tobacco product
5 manufacturer, as defined in the Act, and is a non-participant
6 in the MSA.

7 77. The State is further informed and believes, by
8 virtue of documents filed by cigarette wholesalers with the
9 State of Montana, and therefore alleges, that cigarettes
10 manufactured by this Defendant were sold in Montana in 1999.
11 The escrow obligations of the Act therefore apply to this
12 Defendant, requiring it to have established and made
13 appropriate contributions to a qualified escrow fund by
14 April 15, 2000.

15 78. The Montana Attorney General's Office in August and
16 December of 2001 sent written notice to this Defendant,
17 informing it of the requirements of the Act. The Defendant
18 has nevertheless defaulted entirely in its obligation to
19 establish and make appropriate contributions to a qualified
20 escrow fund and to certify its compliance with the Act to the
21 Attorney General.

22 WHEREFORE, the State prays that this Court

23 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
24 applies to knowing violations, enter a mandatory injunction
25 requiring the said Defendant (i) to place such funds into a
26 qualified escrow fund as shall bring it into compliance with
27

1 the Act, and (ii) to make a compliance certification to the
2 Attorney General;

3 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
4 Act, impose a penalty against the said Defendant in the
5 amount of up to 300 percent of the original amount improperly
6 withheld from escrow; and

7 (c) award the State such further relief as may be
8 necessary or appropriate.

9
10 **COUNT 19**
11 **MOHANLAL HARGOVINDDAS**

12 79. The State hereby incorporates the allegations of
13 paragraphs 1-6 as if set forth herein in their entirety.

14 80. The State is informed and believes, and therefore
15 alleges, that MOHANLAL HARGOVINDDAS is a corporate entity
16 organized under the laws of a foreign country with offices in
17 Jabalpur, India. It is a tobacco product manufacturer, as
18 defined in the Act, and is a non-participant in the MSA.

19 81. The State is further informed and believes, by
20 virtue of documents or other information furnished by
21 cigarette distributors to the Attorney General's Office, and
22 therefore alleges, that cigarettes manufactured by this
23 Defendant were sold in Montana in 1999 and in 2000. The
24 escrow obligations of the Act therefore apply to this
25 Defendant, requiring it to have established and made
26 appropriate contributions to a qualified escrow fund by,
27 respectively, April 15, 2000, and by April 15, 2001.

1 82. The Montana Attorney General's Office in March and
2 December of 2001 sent written notice to this Defendant,
3 informing it of the requirements of the Act. The Defendant
4 has nevertheless defaulted entirely in its obligation to
5 establish and make the appropriate contributions to a
6 qualified escrow fund and to certify its compliance with the
7 Act to the Attorney General.

8 WHEREFORE, the State prays that this Court

9 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
10 applies to knowing violations, enter a mandatory injunction
11 requiring the said Defendant (i) to place such funds into a
12 qualified escrow fund as shall bring it into compliance with
13 the Act, and (ii) to make a compliance certification to the
14 Attorney General;

15 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
16 Act, impose a penalty against the said Defendant in the
17 amount of up to 300 percent of the original amounts
18 improperly withheld from escrow;

19 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
20 applies to two knowing violations, enjoin the said Defendant
21 from selling the cigarettes of the said Defendant in Montana,
22 whether directly or through a wholesaler, distributor,
23 retailer or similar intermediary, for a period of two years;
24 and

25 (d) award the State such further relief as may be
26 necessary or appropriate.

27

COUNT 20
NORTH ATLANTIC OPERATING COMPANY

83. The State hereby incorporates the allegations of paragraphs 1-6 as if set forth herein in their entirety.

84. The State is informed and believes, and therefore alleges, NORTH ATLANTIC OPERATING COMPANY is a corporate entity organized under the laws of a state other than Montana with offices in Louisville, Kentucky. It is a tobacco product manufacturer, as defined in the Act, and is a non-participant in the MSA.

85. The State is further informed and believes, by virtue of documents filed by cigarette wholesalers with the State of Montana, and therefore alleges, that cigarettes manufactured by this Defendant were sold in Montana in 1999 and 2000. The escrow obligations of the Act therefore apply to this Defendant, requiring it to have established and made appropriate contributions to a qualified escrow fund by, respectively, April 15, 2000, and by April 15, 2001.

86. The Montana Attorney General's Office in December of 2001 sent written notice to this Defendant, informing it of the requirements of the Act. The Defendant has nevertheless failed in its obligation to establish and make appropriate contributions to a qualified escrow fund and to certify that it has deposited the full amount owed to the State of Montana.

WHEREFORE, the State prays that this Court

1 (a) pursuant to § 16-11-403(2)(c)(iii) of the Act, enter
2 a mandatory injunction requiring the said Defendant (i) to
3 establish a qualified escrow fund in compliance with the Act,
4 and (ii) to make a compliance certification to the Attorney
5 General;

6 (b) pursuant to the same § 16-11-403(2)(c)(i) of the
7 Act, impose a penalty against the said Defendant in the
8 amount of up to 100 percent of the original amount improperly
9 withheld from escrow; and

10 (c) award the State such further relief as may be
11 necessary or appropriate.

12
13 **COUNT 21**
14 **P.T. BENTOEL PRIMA MALANG**

15 87. For paragraph 1 of Count 18, the State hereby
16 incorporates the General Allegations as if set forth herein
17 in their entirety.

18 88. The State is informed and believes, and therefore
19 alleges, that P.T. BENTOEL PRIMA MALANG is a corporate entity
20 organized under the laws of a foreign country with offices in
21 Jakarta, Indonesia. It is a tobacco product manufacturer, as
22 defined in the Act, and is a non-participant in the MSA.

23 89. The State is further informed and believes, by
24 virtue of documents filed by cigarette wholesalers with the
25 State of Montana, and therefore alleges, that cigarettes
26 manufactured by this Defendant were sold in Montana in 1999
27 and in 2000. The escrow obligations of the Act therefore

1 apply to this Defendant, requiring it to have established and
2 made appropriate contributions to a qualified escrow fund by,
3 respectively, April 15, 2000, and by April 15, 2001.

4 90. The Montana Attorney General's Office in March and
5 December of 2001 sent written notice to this Defendant,
6 informing it of the requirements of the Act. The Defendant
7 has nevertheless defaulted in its obligation to establish the
8 qualified escrow fund and to certify its compliance with the
9 Act to the Attorney General.

10 WHEREFORE, the State prays that this Court

11 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
12 applies to knowing violations, enter a mandatory injunction
13 requiring the said Defendant (i) to establish a qualified
14 escrow fund to bring it into compliance with the Act, and
15 (ii) to make a compliance certification to the Attorney
16 General;

17 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
18 Act, impose a penalty against the said Defendant in the
19 amount of up to 300 percent of the original amounts
20 improperly withheld from escrow; and

21 (c) award the State such further relief as may be
22 necessary or appropriate.

23
24 **COUNT 22**
25 **P.T. GADANG GARAM**

26 91. The State hereby incorporates the allegations of
27 paragraphs 1-6 as if set forth herein in their entirety.

1 92. The State is informed and believes, and therefore
2 alleges, that P.T. GADANG GARAM is a corporate entity
3 organized under the laws of a foreign country with offices in
4 Surabaya, Indonesia. It is a tobacco product manufacturer,
5 as defined in the Act, and is a non-participant in the MSA.

6 93. The State is further informed and believes, by
7 virtue of documents filed by cigarette wholesalers with the
8 State of Montana, and therefore alleges, that cigarettes
9 manufactured by this Defendant were sold in Montana 1999 and
10 in 2000. The escrow obligations of the Act therefore apply
11 to this Defendant, requiring it to have established and made
12 appropriate contributions to a qualified escrow fund by,
13 respectively, April 15, 2000, and by April 15, 2001.

14 94. The Montana Attorney General's Office in August and
15 December of 2001 and January of 2002 sent written notice to
16 this Defendant, informing it of the requirements of the Act.
17 The Defendant has nevertheless defaulted in its obligation to
18 establish the qualified escrow fund and to certify its
19 compliance with the Act to the Attorney General.

20 WHEREFORE, the State prays that this Court

21 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
22 applies to knowing violations, enter a mandatory injunction
23 requiring the said Defendant (i) to place such funds into a
24 qualified escrow fund as shall bring it into compliance with
25 the Act, and (ii) to make a compliance certification to the
26 Attorney General;

27

1 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
2 Act, impose a penalty against the said Defendant in the
3 amount of up to 300 percent of the original amounts
4 improperly withheld from escrow;

5 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
6 applies to two knowing violations, enjoin the said Defendant
7 from selling the cigarettes of the said Defendant in Montana,
8 whether directly or through a wholesaler, distributor,
9 retailer or similar intermediary, for a period of two years;
10 and

11 (d) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
12 applies to two knowing violations, enjoin the said Defendant
13 in Montana, whether directly or through a wholesaler,
14 distribute, retailer or similar intermediary for a period of
15 two years; and

16 (e) award the State such further relief as may be
17 necessary or appropriate.

18
19 **COUNT 23**
20 **RBJ SALES**

21 95. The State hereby incorporates the allegations of
22 paragraphs 1-6 as if set forth herein in their entirety.

23 96. The State is informed and believes, and therefore
24 alleges, that RBJ SALES is a corporate entity organized under
25 the laws of a foreign country with offices in Dresden,
26 Tennessee. It is a tobacco product manufacturer, as defined
27 in the Act, and is a non-participant in the MSA.

1 97. The State is further informed and believes, by
2 virtue of documents or other information furnished by
3 cigarette distributors to the Attorney General's Office, and
4 therefore alleges, that cigarettes manufactured by this
5 Defendant were sold in Montana in 1999 and 2000. The escrow
6 obligations of the Act therefore apply to this Defendant,
7 requiring it to have established and made appropriate
8 contributions to a qualified escrow fund by, respectively,
9 April 15, 2000, and April 15, 2001.

10 98. The Montana Attorney General's Office in March and
11 December of 2001 sent written notice to this Defendant,
12 informing it of the requirements of the Act. The Defendant
13 has nevertheless defaulted in its obligation to establish and
14 make appropriate contributions to a qualified escrow fund.

15 WHEREFORE, the State prays that this Court

16 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
17 applies to knowing violations, enter a mandatory injunction
18 requiring the said Defendant (i) to place such funds into a
19 qualified escrow fund as shall bring it into compliance with
20 the Act, and (ii) to make a compliance certification to the
21 Attorney General;

22 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
23 Act, impose a penalty against the said Defendant in the
24 amount of up to 300 percent of the original amount improperly
25 withheld from escrow;

26 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
27 applies to two knowing violations, enjoin the said Defendant

1 from selling the cigarettes of the said Defendant in Montana,
2 whether directly or through a wholesaler, distributor,
3 retailer or similar intermediary, for a period of two years;
4 and

5 (d) award the State such further relief as may be
6 necessary or appropriate.

7
8 **COUNT 24**
9 **RED HAWK TOBACCO CO.**

10 99. The State hereby incorporates the allegations of
11 paragraphs 1-6 as if set forth herein in their entirety.

12 100. The State is informed and believes, and therefore
13 alleges, that RED HAWK TOBACCO CO. is a corporate entity
14 organized under the laws of a foreign country with offices in
15 Covington, Kentucky. It is a tobacco product manufacturer,
16 as defined in the Act, and is a non-participant in the MSA.

17 101. The State is further informed and believes, by
18 virtue of documents filed by cigarette wholesalers with the
19 State of Montana, and therefore alleges, that cigarettes
20 manufactured by this Defendant were sold in Montana in 1999.
21 The escrow obligations of the Act therefore apply to this
22 Defendant, requiring it to have established and made
23 appropriate contributions to a qualified escrow fund by
24 April 15, 2000.

25 102. The Montana Attorney General's Office twice in
26 December of 2001 and January of 2002 sent written notice to
27 this Defendant, to inform RED HAWK TOBACCO CO. of the

1 requirements of the Act. Both notices were returned. The
2 Defendant has nevertheless defaulted entirely in its
3 obligation to establish and to make appropriate contributions
4 to the qualified escrow fund and to certify its compliance
5 with the Act to the Attorney General.

6 WHEREFORE, the State prays that this Court

7 (a) pursuant to § 16-11-403(2)(c)(i) of the Act, which
8 applies to violations, enter a mandatory injunction requiring
9 the said Defendant (i) to place such funds into a qualified
10 escrow fund as shall bring it into compliance with the Act,
11 and (ii) to make a compliance certification to the Attorney
12 General;

13 (b) pursuant to the same § 16-11-403(2)(c)(i) of the
14 Act, impose a penalty against the said Defendant in the
15 amount of up to 100 percent of the original amounts
16 improperly withheld from escrow; and

17 (c) award the State such further relief as may be
18 necessary or appropriate.

19
20 **COUNT 25**
21 **REPUBLIC TOBACCO**

22 103. The State hereby incorporates the allegations of
23 paragraphs 1-6 as if set forth herein in their entirety. The
24 State is informed and believes, and therefore alleges, that
25 REPUBLIC TOBACCO is a corporate entity organized under the
26 laws of a state other than Montana with offices in Chicago,
27

1 Illinois. It is a tobacco product manufacturer, as defined
2 in the Act, and is a non-participant in the MSA.

3 104. The State is further informed and believes, by
4 virtue of documents filed by cigarette wholesalers with the
5 State of Montana, and therefore alleges, that cigarettes
6 manufactured by this Defendant were sold in Montana in 2000.
7 The escrow obligations of the Act therefore apply to this
8 Defendant, requiring it to have established and made
9 appropriate contributions to a qualified escrow fund by
10 April 15, 2001.

11 105. The Montana Attorney General's Office in December
12 of 2001 sent written notice to this Defendant, informing it
13 of the requirements of the Act. The Defendant has
14 nevertheless defaulted entirely in its obligation to
15 establish the qualified escrow fund and to certify its
16 compliance with the Act to the Attorney General.

17 WHEREFORE, the State prays that this Court

18 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
19 applies to knowing violations, enter a mandatory injunction
20 requiring the said Defendant (i) to place such funds into a
21 qualified escrow fund as shall bring it into compliance with
22 the Act, and (ii) to make a compliance certification to the
23 Attorney General;

24 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
25 Act, impose a penalty against the said Defendant in the
26 amount of up to 300 percent of the original amount improperly
27 withheld from escrow; and

1 (c) award the State such further relief as may be
2 necessary or appropriate.
3

4 **COUNT 26**
5 **SABLE & WAGHIRE & CO. LTD**

6 106. The State hereby incorporates the allegations of
7 paragraphs 1-6 as if set forth herein in their entirety.

8 107. The State is informed and believes, and therefore
9 alleges, that SABLE & WAGHIRE & CO. LTD. is a corporate
10 entity organized under the laws of a foreign country with
11 offices in Pune, India. It is a tobacco product
12 manufacturer, as defined in the Act, and is a non-participant
13 in the MSA.

14 108. The State is further informed and believes, by
15 virtue of documents or other information furnished by
16 cigarette wholesalers to the State of Montana, and therefore
17 alleges, that cigarettes manufactured by this Defendant were
18 sold in Montana in 1999 and 2000. The escrow obligations of
19 the Act therefore apply to this Defendant, requiring it to
20 have established and made appropriate contributions to a
21 qualified escrow fund by, respectively, April 15, 2000, and
22 April 15, 2001.

23 109. The Montana Attorney General's Office in August
24 and December 2001 sent written notice to this Defendant,
25 informing it of the requirements of the Act. The Defendant
26 has nevertheless defaulted entirely in its obligation to
27

1 establish the qualified escrow fund and to certify its
2 compliance with the Act to the Attorney General.

3 WHEREFORE, the State prays that this Court

4 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
5 applies to knowing violations, enter a mandatory injunction
6 requiring the said Defendant (i) to place such funds into a
7 qualified escrow fund as shall bring it into compliance with
8 the Act, and (ii) to make a compliance certification to the
9 Attorney General;

10 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
11 Act, impose a penalty against the said Defendant in the
12 amount of up to 300 percent of the original amount improperly
13 withheld from escrow;

14 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
15 applies to two knowing violations, enjoin the said Defendant
16 from selling the cigarettes of the said Defendant in Montana,
17 whether directly or through a wholesaler, distributor,
18 retailer or similar intermediary, for a period of two years;
19 and

20 (d) award the State such further relief as may be
21 necessary or appropriate.

22
23 **COUNT 27**
24 **SEKAP GREEK COOPERATIVE MFR'G CO. S.A.**

25 110. The State hereby incorporates the allegations of
26 paragraphs 1-6 as if set forth herein in their entirety.
27

1 111. The State is informed and believes, and therefore
2 alleges, that SEKAP GREEK COOPERATIVE MFR'G CO. S.A. is a
3 corporate entity organized under the laws of a foreign
4 country with offices in Xanthi, Greece. It is a tobacco
5 product manufacturer, as defined in the Act, and is a non-
6 participant in the MSA.

7 112. The State is further informed and believes, by
8 virtue of documents filed by cigarette wholesalers with the
9 State of Montana, and therefore alleges, that cigarettes
10 manufactured by this Defendant were sold in Montana in 1999.
11 The escrow obligations of the Act therefore apply to this
12 Defendant, requiring it to have established and made
13 appropriate contributions to a qualified escrow fund by
14 April 15, 2000.

15 113. The Montana Attorney General's Office in December
16 of 2001 sent written notice to this Defendant, informing it
17 of the requirements of the Act. The Defendant has
18 nevertheless defaulted entirely in its obligation to
19 establish the qualified escrow fund and to certify its
20 compliance with the Act to the Attorney General.

21 WHEREFORE, the State prays that this Court

22 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
23 applies to knowing violations, enter a mandatory injunction
24 requiring the said Defendant (i) to place such funds into a
25 qualified escrow fund as shall bring it into compliance with
26 the Act, and (ii) to make a compliance certification to the
27 Attorney General;

1 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
2 Act, impose a penalty against the said Defendant in the
3 amount of up to 300 percent of the original amount improperly
4 withheld from escrow;

5 (c) award the State such further relief as may be
6 necessary or appropriate.

7
8 **COUNT 28**
9 **T.H. D. GEORGIADES, S.A.**

10 114. The State hereby incorporates the allegations of
11 paragraphs 1-6 as if set forth herein in their entirety.

12 115. The State is informed and believes, and therefore
13 alleges, that T.H. D. GEORGIADES, S.A. is a corporate entity
14 organized under the laws of a foreign country with offices in
15 Attiki, Greece. It is a tobacco product manufacturer, as
16 defined in the Act, and is a non-participant in the MSA.

17 116. The State is further informed and believes, by
18 virtue of documents or other information furnished by
19 cigarette wholesalers to the State of Montana, and therefore
20 alleges, that cigarettes manufactured by this Defendant were
21 subsequently sold in Montana in 2000. The escrow obligations
22 of the Act therefore apply to this Defendant, requiring it to
23 have established and made appropriate contributions to a
24 qualified escrow fund by April 15, 2001.

25 117. The Montana Attorney General's Office December of
26 2001 sent written notice to this Defendant, informing it of
27 the requirements of the Act. The Defendant has nevertheless

1 defaulted in its obligation to establish the qualified escrow
2 fund.

3 WHEREFORE, the State prays that this Court

4 (a) pursuant to § 16-11-403(2)(c)(i) of the Act, enter a
5 mandatory injunction requiring the said Defendant (i) to
6 establish a qualified escrow which brings it into compliance
7 with the Act, and (ii) to make a compliance certification to
8 the Attorney General; and

9 (b) award the State such further relief as may be
10 necessary or appropriate.

11
12 **COUNT 29**
13 **UPPER TEN TABAK BV**

14 118. The State hereby incorporates the allegations of
15 paragraphs 1-6 as if set forth herein in their entirety.

16 119. The State is informed and believes, and therefore
17 alleges, that UPPER TEN TABAK BV is a corporate entity
18 organized under the laws of a foreign country with offices in
19 Heemstede, Netherlands. It is a tobacco product
20 manufacturer, as defined in the Act, and is a non-participant
21 in the MSA.

22 120. The State is further informed and believes, by
23 virtue of documents or other information furnished by
24 cigarette wholesalers to the State of Montana, and therefore
25 alleges, that cigarettes manufactured by this Defendant were
26 sold in Montana in 1999 and in 2000. The escrow obligations
27 of the Act therefore apply to this Defendant, requiring it to

1 have established and made appropriate contributions to a
2 qualified escrow fund by, respectively, April 15, 2000, and
3 by April 15, 2001.

4 121. The Montana Attorney General's Office in March and
5 December of 2001 sent written notice to this Defendant,
6 informing it of the requirements of the Act. The Defendant
7 has nevertheless defaulted entirely in its obligations to
8 establish and make appropriate contributions to the qualified
9 escrow fund and to certify its compliance with the Act to the
10 Attorney General.

11 WHEREFORE, the State prays that this Court

12 (a) pursuant to § 16-11-403(2)(c)(ii) of the Act, which
13 applies to knowing violations, enter a mandatory injunction
14 requiring the said Defendant (i) to place such funds into a
15 qualified escrow fund as shall bring it into compliance with
16 the Act, and (ii) to make a compliance certification to the
17 Attorney General;

18 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
19 Act, impose a penalty against the said Defendant in the
20 amount of up to 300 percent of the original amounts
21 improperly withheld from escrow; and

22 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
23 applies to two knowing violations, enjoin the said Defendant
24 from selling the cigarettes of the said Defendant in Montana,
25 whether directly or through a wholesaler, distributor,
26 retailer or similar intermediary, for a period of two years;
27 and

1 (d) award the State such further relief as may be
2 necessary or appropriate.

3
4 **COUNT 30**
5 **VCT/TOBACCO SPECIALTIES**

6 122. The State hereby incorporates the allegations of
7 paragraphs 1-6 as if set forth herein in their entirety.

8 123. The State is informed and believes, and therefore
9 alleges, that VCT/TOBACCO SPECIALTIES is a corporate entity
10 organized under the laws of a foreign country with offices in
11 Cruquuius, Netherlands. It is a tobacco product
12 manufacturer, as defined in the Act, and is a non-participant
13 in the MSA.

14 124. The State is further informed and believes, by
15 virtue of documents filed by cigarette wholesalers with the
16 State of Montana, and therefore alleges, that cigarettes
17 manufactured by this Defendant were sold in Montana in 1999
18 and in 2000. The escrow obligations of the Act therefore
19 apply to this Defendant, requiring it to have established and
20 made appropriate contributions to a qualified escrow fund by,
21 respectively, April 15, 2000, and by April 15, 2001.

22 125. The Montana Attorney General's Office in March and
23 December of 2001 sent written notice to this Defendant,
24 informing it of the requirements of the Act. The Defendant
25 has nevertheless defaulted in its obligations to establish
26 and make appropriate contributions to a qualified escrow fund

1 and to certify its compliance with the Act to the Attorney
2 General.

3 WHEREFORE, the State prays that this Court

4 (a) pursuant to § 16-11-403-(a)(c)(ii) of the Act, which
5 applies to knowing violations, enter a mandatory injunction
6 requiring the said Defendant (i) to place such funds into a
7 qualified escrow fund as shall bring it into compliance with
8 the Act, and (ii) to make a compliance certification to the
9 Attorney General;

10 (b) pursuant to the same § 16-11-403(2)(c)(ii) of the
11 Act, impose a penalty against the said Defendant in the
12 amount of up to 300 percent of the original amount improperly
13 withheld from escrow;

14 (c) pursuant to § 16-11-403(2)(c)(iii) of the Act, which
15 applies to two knowing violations, enjoin the said Defendant,
16 and all those acting in concert with it, including
17 wholesalers, distributors and retailers, from selling the
18 cigarettes of the said Defendant in Montana for a period of
19 two years;

20 (d) award the State such further relief as may be
21 necessary or appropriate.

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27 ///

1 WHEREFORE, the Plaintiff prays for judgment against the
2 Defendants as individually-addressed above.

3 DATED this _____ day of February, 2002.

4 MIKE McGRATH
5 ATTORNEY GENERAL

6 By: _____
7 Assistant Attorney General
8 Ms. Katherine J. Orr
9 Ms. Karen E. Powell
10 Assistant Attorneys General
11 State Of Montana
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